

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 101

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO CRIMINAL HISTORY RECORDS AND CRIME INFORMATION; AMENDING SEC-
2 TION 67-3001, IDAHO CODE, TO DEFINE A TERM AND TO REVISE A DEFINITION;
3 AND AMENDING SECTION 67-3008, IDAHO CODE, TO REQUIRE THAT THE BUREAU OF
4 CRIMINAL IDENTIFICATION IN THE IDAHO STATE POLICE RETAIN CERTAIN PRINTS
5 AND TO PROVIDE THAT REQUESTS FOR EXPUNGEMENT OF CERTAIN PRINT RECORDS BE
6 MADE IN ACCORDANCE WITH BUREAU RULES AND ONLY BE GRANTED UNDER CERTAIN
7 CONDITIONS.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 67-3001, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 67-3001. DEFINITIONS. As used in this chapter:

13 (1) "Administration of criminal justice" means performance of any of
14 the following activities: detection, apprehension, detention, pretrial
15 release, posttrial release, prosecution, adjudication, correctional su-
16 pervision, or rehabilitation of accused persons or criminal offenders. The
17 administration of criminal justice includes criminal identification ac-
18 tivities and the collection, storage and dissemination of criminal history
19 record information.

20 (2) "Bureau" means the bureau of criminal identification in the Idaho
21 state police.

22 (3) "Court" means any court created by the constitution and laws of the
23 state of Idaho; and clerks of the district court.

24 (4) "Criminal history records" means physical and automated informa-
25 tion on individuals collected and maintained by the Idaho state police as a
26 result of arrest or the initiation of a criminal proceeding by felony sum-
27 mons or information. A criminal history record includes, as defined by de-
28 partment rule, any or all of the following information relating to each event
29 that is subject to fingerprinting under section 67-3004, Idaho Code:

30 (a) Information relating to offenders;

31 (b) Information relating to arrests;

32 (c) Information relating to prosecutions;

33 (d) Information relating to the disposition of cases by courts;

34 (e) Information relating to sentencing;

35 (f) Information relating to probation and parole status; and

36 (g) Information relating to offenders received by a correctional
37 agency, facility or other institution.

38 The term shall not include statistical or analytical records, reports in
39 which individuals are not identified and from which their identities are not
40 ascertainable, criminal intelligence information or criminal investigative
41 information, and source information or records maintained by and held at
42 another criminal justice agency or the court.

1 (5) "Criminal justice agency" means a governmental agency or subdi-
 2 vision of a government entity that performs the administration of criminal
 3 justice pursuant to a statute, and that allocates a substantial portion of
 4 its budget to the administration of criminal justice.

5 (6) "Department" means the Idaho state police.

6 (7) "Director" means the director of the Idaho state police.

7 (8) "Disposition" means the formal or informal conclusion of a criminal
 8 proceeding at whatever stage it occurs in the criminal justice system.

9 (9) "Fingerprints" means the fingerprint impressions submitted to and
 10 compiled by the bureau, in a manual or automated form, pursuant to section
 11 67-3004, Idaho Code.

12 (10) "Pecuniary benefit" means any benefit to a person or member of his
 13 household in the form of money, property or commercial interests, the pri-
 14 mary significance of which is economic gain.

15 (11) "Rap back" means a program that allows authorized agencies to re-
 16 ceive notification of subsequent criminal activity reported on individuals
 17 holding positions of trust.

18 (12) "Retainable offense" means:

19 (a) A felony; or

20 (b) A ~~serious~~ misdemeanor as defined by rule adopted under section
 21 67-3003(2), Idaho Code.

22 (12~~3~~) "Subject of record" means the person who is or may be the primary
 23 subject of a record of criminal justice information or any representative of
 24 the person designated by power of attorney or notarized authorization.

25 (13~~4~~) "Working day" means each day except Saturday, Sunday, or a legal
 26 state holiday.

27 SECTION 2. That Section 67-3008, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 67-3008. RELEASE OF CRIMINAL HISTORY RECORD INFORMATION. (1) All
 30 units of state, city and local governments, as well as any agency of the state
 31 created by the legislature which require by statute, rule, or local or county
 32 ordinance, fingerprinting of applicants or licensees, are authorized to
 33 submit fingerprints to the bureau for examination and further submission,
 34 if necessary, to the federal bureau of investigation. The bureau shall be
 35 the state's sole source of fingerprint submissions for criminal justice and
 36 applicant or licensing purposes to the federal bureau of investigation. The
 37 bureau shall retain such prints for use in rap back and for criminal justice
 38 and humanitarian purposes. Requests for expungement of such print records
 39 shall be made in accordance with the bureau's administrative rules and shall
 40 only be granted under conditions provided in section 67-3004(10), Idaho
 41 Code.

42 (2) The department shall provide copies of or communicate information
 43 from criminal history records to the following:

44 (a) Criminal justice agencies and the court;

45 (b) A person or public or private agency, upon written application on a
 46 form approved by the director and provided by the department, subject to
 47 the following restrictions:

48 (i) A request for criminal history records must be submitted in
 49 writing or as provided by rule. However, the department shall ac-

1 cept a request presented in person by the subject of the record;
2 and

3 (ii) The request must identify a specific person by name and date
4 of birth. Fingerprints of the person named may be required to es-
5 tablish positive identification; and

6 (iii) Responding to the request does not interfere with the secure
7 and orderly conduct of the department and would not substantially
8 prejudice or prevent the carrying out of the functions of the de-
9 partment; and

10 (iv) A record of an arrest that does not contain a disposition af-
11 ter twelve (12) months from the date of arrest may only be dissem-
12 inated by the department to criminal justice agencies, to the sub-
13 ject of the record, or to a person requesting the criminal history
14 information with a signed release from the subject of the record;
15 and

16 (v) Any release of criminal history data by the department shall
17 prominently display the statement: "AN ARREST WITHOUT DISPOSI-
18 TION IS NOT AN INDICATION OF GUILT."

19 (3) Judicial review of the department's denial of a request for records
20 shall be in accordance with the provisions of section 9-343, Idaho Code.

21 (4) A request for a criminal history record by a criminal justice agency
22 or a court shall take precedence over all other requests. The department
23 shall adopt rules to set forth the manner by which criminal justice agencies
24 and courts without direct access to the public safety and security informa-
25 tion system established by section 19-5202, Idaho Code, may request Idaho
26 criminal history record information.

27 (5) Unless otherwise provided by law, access authorized under this
28 section to criminal history records does not create a duty upon a person,
29 employer, private agency, or public agency to examine the criminal history
30 record of an applicant, employee or volunteer.

31 (6) A person or private agency, or public agency, other than the depart-
32 ment, shall not disseminate criminal history record information obtained
33 from the department to a person or agency that is not a criminal justice
34 agency or a court without a signed release of the subject of record or unless
35 otherwise provided by law.

36 (7) Direct access to criminal history record information is regulated
37 by chapter 52, title 19, Idaho Code, and the rules adopted pursuant to that
38 chapter.